

North Somerset Council

Report to the Council

Date of Meeting: 11 July 2023

Subject of Report: ALLOCATION OF CAPITAL FUNDS TO SUPPORT DELIVERY OF BANWELL BYPASS

Town or Parish: Banwell, Winscombe and Sandford, Churchill and Locking

Officer/Member Presenting: Leader of the Council as the Executive Member for the Capital Programme and Major Projects

Key Decision: No

Recommendations

It is recommended that the Council:

1. Supports progression of the Banwell Bypass scheme and necessary increase in Council funding
2. approves in principle the allocation of £11.9m of funding to contribute towards the cost of Banwell bypass scheme
3. approves in principle the increase in the Capital Programme by £11.9m, subject to the scheme being fully funded and progressed as planned.

1. Summary of Report

- 1.1. In June 2020 the Council approved Heads of Terms to allow the Council to enter into a Grant Determination Agreement (GDA) with Homes England, increasing the Capital Programme by £97,067,550 (decision COU09).
- 1.2. The funds, secured through a successful bid to Homes England for the Housing Infrastructure Fund, would allow North Somerset Council (NSC) to deliver essential infrastructure that would support the delivery of current and future housing in the local area. The works included:
 - a) A bypass for the village of Banwell
 - b) Online improvements to the local road network
 - c) Upgrades to utility connections
 - d) Flood management for the bypass
 - e) New secondary school provision (not referred to in this report)
- 1.3. The new secondary school is on track to be delivered in accordance with the original timescales and within the funding envelope and so is not being considered within this report.

- 1.4. The bypass element of the HIF funding award comprised £66m of the total grant and was split into two stages:
 - a) Stage 1 (preliminary): approx. £17m. This includes the costs of the design work, land acquisition and securing the necessary statutory orders.
 - b) Stage 2 (construction): approx. £49m. This relates to the detailed design and construction costs for delivering the scheme.
- 1.5. The funding allocation included a proportionate risk and inflation allowance which was accounted for at the time of bid submission. This considered all risks including inflation likely to occur in a normal historical period and using experience and understanding of both past, current and future projected cost pressures through risk realisation. Despite this, the construction sector (in-line with, but at a far higher level than the wider economy) has experienced significant inflationary pressure. Some core prices have risen in the order of 35%-50%. These external factors, outside of the control of either the council or the project team, have had a detrimental impact to the stage 2 construction target cost which has now increased to £60m, generating a total programme forecast of £90m; and a funding gap of approximately £23.9m.
- 1.6. The GDA stated that the project must be delivered by March 2024. At the point of entering into the agreement the Council noted that this would be challenging as many of the statutory processes (planning and CPO inquiry) have timescales that are beyond the project team's control, it was agreed by Homes England that an extension could be applied for when there was more certainty over timeline. A timeline extension was formally requested on 29th March 2023.
- 1.7. As a result of the increased costs and programme delays, which are reported to Homes England on a monthly basis, Homes England have triggered a general default clause, a contractual mechanism which requires both parties to agree a resolution. The Council had anticipated this measure and are working collaboratively with Homes England to overcome this. Homes England remain supportive of the project. The Scheme cost pressures were mentioned in the 21st February Full Council report regarding authorising the supplementary CPO. Further detail was to be brought subsequently to Full Council.
- 1.8. Clause 6.6.4 of the GDA notes that the Grant Recipient (NSC) shall meet all cost overruns from its own resources. Given the scale of the funding gap and the inflation pressures across all services, the Council cannot afford to cover the costs on its own.
- 1.9. This report sets out the available funding that North Somerset could contribute from its own resources and the Council has submitted a request to Homes England for additional funding from the HIF programme to fund the remaining £12m short-fall on the scheme.
- 1.10. Without a fully funded scheme it is not possible to move into the delivery and construction phase.. The additional funding identified by the Council in this report will therefore only be used if the scheme is fully funded with support from Homes England and can be progressed. Lobbying of Government continues, in order to see if any other funding options might be available to the council.
- 1.11. It should also be noted that the inflationary pressure being experienced within the Banwell Bypass project and as part of the HIF programme is by no means unique to this project and is being experienced by the vast majority of projects within the HIF programme.

2. Policy

2.1. This supports Core Strategy policies including:

- CS10 Transportation and movement
- CS12 Achieving high quality design and place making
- CS13 Scale of new housing
- CS14 Distribution of new housing
- CS15 Mixed and balanced communities
- CS16 Affordable housing
- CS20 Supporting a successful economy

2.2. The following Development management policy is also of particular relevance:

- DM20: Major Transport Schemes. This policy safeguards the previous alignment of the Banwell bypass from inappropriate development. The safeguarded route is broadly equivalent to the adopted route alignment for the Scheme.

2.3. The Emerging Local Plan (2038) has recently undertaken Regulation 18 consultation and, as currently prepared, this also continues to safeguard the bypass route in policy LP10 (Transport Infrastructure Allocations and Safeguarding) and is also specifically mentioned in policy LP1 (Strategic Location Wolverhill (north of Banwell)).

2.4. The proposed infrastructure also supports North Somerset's Corporate Plan which recognises the need for more homes to meet the demand of the Council's growing population and government targets, including affordable homes. The Corporate Plan also has a priority of a transport network that promotes active, accessible and low carbon travel. The scheme supports both of these priorities by unlocking land suitable for housing development and providing enhanced routes for walking, cycling and equestrian use. The Corporate Plan places a priority on delivering the Banwell Bypass to ensure that the Council can support a policy of supplying quality and affordable homes to ensure a five-year supply is in place. The scheme also includes mitigation measure to improve highway safety, and environmental mitigation to reduce the scheme's impact on the environment, as well as reducing the existing congestion issues through Banwell.

3. Details

Progress to date

3.1. Since August 2020, at the point the Grant Determination Agreement was signed, the bypass project team have undertaken extensive consultation which has shaped the preliminary design for the scheme ahead of planning submission in July 2022. Planning permission for the scheme was granted in March 2023.

3.2. The project team have made and submitted for confirmation two compulsory purchase orders (CPOs) and a Side Roads Order (SRO) in October 2022 and March 2023 for the scheme, which accounts for all of the land which is to be acquired (either freehold title or rights) and modifications/alterations to existing highway.

- 3.3. The next stage of the project is to proceed with a CPO/SRO public inquiry commencing on the 11 July 2023 to obtain all necessary land and rights ahead of construction commencement. Completion of land assembly is a contractual requirement within the GDA, without this the project is unable to draw down stage 2 funds.
- 3.4. As mentioned above, due to reported external cost and programme pressures on the construction (stage 2) of Banwell bypass, Homes England have triggered a general default clause, a contractual mechanism which requires both parties to agree a resolution.
- 3.5. The triggering of the default required the Council to submit a remediation plan which identified a pathway to resolution. North Somerset Council have been working with Homes England to proactively agree an approach to close the remaining cost gap.

Benefits of delivering the Banwell By-Pass scheme

- 3.6. As identified in the HIF bid, the bypass generates capacity on the highway network to enable 3,075 new residential dwellings (2,800 at Wolvershill Village and 275 dwellings elsewhere within the Banwell area) and alleviates existing congestion, which is being compounded by the build out of Weston Villages. The wider benefits unlocked as part of the Wolvershill Village allocation include a new mixed use local centre, at least three 420-place primary schools, 980 affordable homes within the 2,800 housing allocation, playing fields and open space.
- 3.7. The Bypass will not only address longstanding local transport issues but represents critical enabling infrastructure that will unlock significant economic development opportunity with a benefit cost ratio of 2.27 i.e. £2.27 of benefit to the wider economy for every £1 spent. This represents 'High' value for money in accordance with the DfT Value for Money Framework.
- 3.8. Both the A371 and A368 are strategic routes providing critical connectivity through North Somerset. The existing volumes of traffic result in significant congestion and delay, particularly on the narrow sections of the A371 within Banwell, which is forecast to worsen. Traffic modelling demonstrates that the Bypass will significantly reduce traffic congestion on the A371 through Banwell Village. In the opening year, there would be a total reduction of vehicles driving through Banwell of ~70%. This aligns with the scheme objectives to deal with existing congestion issues and improve and enhance Banwell's public spaces by reducing traffic severance.
- 3.9. The scheme will create a new continuous active travel route between the Strawberry Line (NCN 26) and Weston-super-Mare that will benefit the new community at Wolvershill by providing better connectivity to employment, health, leisure and retail facilities in Weston-super-Mare, including the Junction 21 Enterprise area. The proposals also include extensive footway, cycleway and public realm, traffic management improvements both within Banwell village itself but also within adjacent villages creating a significant non-motorised network.
- 3.10. Improving the A368/A371 corridor through Banwell will provide a faster and more reliable, strategic route to and from Weston-super-Mare, releasing pressure on other strategic corridors that traffic currently reroutes to and improving wider connectivity to the West of England area.
- 3.11. Extensive scope management and value assessment was undertaken prior to both planning submission and Order application. There are limited opportunities for further

de-scoping the fundamental nature of the scheme without requiring resubmission of planning and amendments to the Orders which would be detrimental to programme and deliverability of the scheme. All elements of the scheme (including wider mitigation measures) are integral to the deliverability of the scheme.

4. Consultation

4.1. The scheme has undertaken a range of consultation since funding was granted, a summary of which has been provided below. Further detail of the consultation can be found in section 4 of decision COU37.

- Non statutory consultation 1 on route options (July – August 2021)
- Non statutory consultation 2 on design refinement and wider mitigations (March – April 2022)
- Statutory Consultation through both the planning application determination (July-August 2022) and also CPO/SRO process (October-November 2022 and March-April 2023).
- Engagement with environmental consultees (frequent pre-planning submission)
- Internal NSC consultation; Local Plan team, Development Management, Public Rights of Way ((frequent pre-planning submission)
- Members of Parliament (quarterly)
- Parish Councils (quarterly)
- Public working groups
- Ongoing engagement with affected landowners and others with an interest in the land

4.2. Engagement with North Somerset councillors has been limited in the last few months due to the pre-election period. However, regular briefings with the Executive Member and scrutiny panel were undertaken regularly before the pre-election period and are to be reinstated now that members have been confirmed.

4.3. Regular meetings have been held with Corporate Leadership Team, working closely with finance colleagues to ensure integration within the Budget monitoring framework as well as to identify potential avenues for additional funding.

5. Financial Implications

Costs

5.1. To date, the Council has spent £9.5m from the stage 1 budget.

5.2. Forecasts show that the budget of £17m is sufficient to see the project through to completion of stage 1.

5.3. Stage 2 has experienced significant external cost pressures as a result of inflation, outside of the control of either the council or the project which has created a funding gap equating to £23.9m.

5.4. It is pertinent to note that the earlier council paper (decision COU09) identified that whilst the bid was submitted in March 2019, the announcement of funds did not arrive until November 2019. The report noted that the delay to the funding announcement had already resulted in a potential further £6.7m of inflationary pressure which was

unfunded at the time. This risk has now materialised, albeit at a greater scale due to economic factors.

5.5. The project team are continuing to explore alternative solutions to reduce the stage 2 costs including a review of the risk allocation, delivering packages of work through other mechanisms such as in-house (NSC) contracts and alternative materials for construction.

Funding

5.6. North Somerset Council have identified £11.9m of funds which could be allocated to the bypass project and would therefore contribute towards the funding gap, subject to the remaining £12m shortfall being agreed and committed to by either Homes England or central government.

5.7. A financial contribution from North Somerset demonstrates to Homes England and other stakeholders that the Council is committed to delivering the scheme and working collaboratively to find a solution to address the funding gap.

5.8. The table below identifies the specific resources that have been identified by the Council at this time that could be used to support the By-Pass.

Funding source	£m
Community Infrastructure Levy (CIL) receipts	4.2m
Economic Development Fund, part of the City-Region Deal	2.1m
Reallocation of resources from existing capital projects	2.0m
Capital risk reserve	1.9m
Capital grants and contributions and other reserves	0.7m
Borrowing	1.0m
Total	11.9m

5.9. The Council has an ambitious and extensive capital programme which fully utilised available funding options at the time of approval. The identification of additional resources to support this scheme has been extensive and also extremely challenging given that the Council is facing a range of other financial pressures within both its revenue and capital budgets and resources are very limited.

5.10. Whilst the funding solutions presented are considered viable options there are implications as the Council will not have any headroom for existing or new capital projects until such time as funds can be replenished and / or savings made.

5.11. The funding options provided also mean that the Council will need to borrow £1m, which will have an impact of approximately £80k on the annual revenue budget, assuming an average cost of capital of 8% is applied, and which will need to be reflected within the Council's medium term financial plans.

5.12. Given these impacts the Council has started a review of the current capital programme with a view to reducing the scale of projects being delivered, which will not only mitigate some of the inflationary risk being faced but also return unspent capital funding. Further information on this review will be provided in future financial reports.

The review of future investment regarding the capital programme will be shared at a suitable scrutiny panel in the future.

- 5.13. Despite the current default, Homes England have continued to release funds through the form of a waiver letter which is allowing the scheme to progress whilst the existing default is resolved.
- 5.14. Before confirming the CPOs, the Secretary of State will need to be satisfied that the scheme is considered to be viable and that there is a reasonable likelihood to proceed.

Legal Powers and Implications

Internal governance

- 5.15. Paragraph 4.35 of the Councils financial regulations state that all increases or changes to approved capital schemes must be approved by full council where the value of changes are greater than £5m.

6. Climate Change and Environmental Implications

- 6.1. There are no climate change or environmental implications which stem directly from this decision.
- 6.2. Chapter 14 of the Environmental Statement (Volume 1) submitted with the Banwell bypass planning application (22/P/1768/R3EIA) reports on the potential effects from the construction and operation of the scheme.
- 6.3. Climate assessments including greenhouse gas (GHG) emissions assessment and climate change resilience (CCR) assessments concluded that the scheme would not have a material impact on the ability of the government to meet its carbon reduction targets.
- 6.4. Further information on the climate change and environmental implications of the scheme can be found below in Appendix 1.

7. Risk Management

- 7.1. The following risks should be considered in conjunction with reviewing this decision:

Key Risks	Mitigating Actions	RAG Rating
If the bypass wasn't to proceed there is a risk to delivery of housing allocation at Wolvershill as set out in the emerging Local Plan (LP1).	<ul style="list-style-type: none">• Exploring alternative funding provision to enable the bypass to be delivered• Engagement with the Local Plan team to understand critical timescales• Review of alternative CIL funds that can be used against the borrowing element of the £11.9m	Red

That a compelling case cannot be made at public inquiry as the scheme cannot evidence funding deliverability	<ul style="list-style-type: none"> NSC proactively working to reduce the stage 2 costs by reviewing client/contractor risk share, supply of materials, pulling out elements of scope to deliver through alternative mechanisms Homes England requesting further £12m for scheme 	Red
Lack of headroom for existing or new capital projects until such time as funds can be replenished and / or savings made.	<ul style="list-style-type: none"> Review of capital programme Aim to reduce to affordable level given 30% inflation Capital monitoring and governance 	Red
The Council will have to borrow to commit funds against this project which creates revenue pressures	<ul style="list-style-type: none"> Review of capital programme to find unspent capital funds and reduce inflationary pressure 	Amber
If the public inquiry were to be withdrawn the Council may be liable for 3 rd party fees	<ul style="list-style-type: none"> In the event we cannot proceed in July, the Council will seek to postpone the inquiry in the first instance An estimate of the likely fees has been calculated and reported to CLT 	Amber
A delay to funding or inquiry creates further delay to programme which is unpalatable to Homes England	<ul style="list-style-type: none"> Progressing with inquiry to prevent any further delays Working up programme scenarios to assess earliest opportunity construction could begin, taking into account constraints (such as ecology) 	Amber
Funding from CIL potentially means that current/future infrastructure requirements to support delivery of the existing and emerging Local Plan may be reduced.	<ul style="list-style-type: none"> There may be potential to fund this infrastructure from other sources, such as future central government funding announcements for the Council to bid for. 	Amber
That the scheme is not delivered and Homes England request all funds (spent to date) are paid back	<ul style="list-style-type: none"> This only applies to a <i>fundamental</i> default within the GDA which we have not triggered, it is a low risk but worth noting in the event we are challenged. 	Green

8. Equality Implications

Have you undertaken an Equality Impact Assessment? **Yes** / No

8.1. An Equalities Impact Assessment (EqIA) was undertaken as part of the environmental impact assessment submitted as part of the planning application.

8.2. A further EqIA was prepared at point of submitting each of the CPOs, which detailed how the Council has had regard to its public sector equalities duty in relation to the CPOs and SRO.

8.3. In order to comply with the public sector equalities duty the Council will continue to monitor and consider equality issues routinely through implementation of the scheme.

9. Corporate Implications

9.1. The Council has a legal responsibility to ensure that all financial matters are fully integrated, and impacts considered before spending plans are approved, and the Council achieves this through the Medium Term Financial Planning process and budget monitoring framework. In developing the funding proposals contained within this paper consideration has been given to the longer-term impact arising from the need to borrow funds and this will be reflected within the Medium Term Financial Plan (MTFP) and revenue budget for future years. The Council is also looking to address the broader inflationary risks and impacts on its current spending plans through undertaking a formal review of future investment.

9.2. It should be noted that separate to this decision, a further report will be brought to Full Council as noted in decision DP329 (20/21) to award the stage 2 element of the design and build contract.

10. Options Considered

10.1. The following options have been considered and discounted for the reasons listed:

A. Continue project to the end of stage 1 and then pause

Providing that the public inquiry can proceed, this would allow for all statutory processes to be completed and would be a convenient point in the project to pause as there would be certainty of both planning consent and CPO (if granted would be valid for three years) and the related SRO. Further funding opportunities could then be explored when they arise.

This would however create uncertainty around the development of the emerging Local Plan and delay the delivery of any housing that the bypass may enable. Congestion will continue to worsen along the A371 which in turn would restrict economic and housing growth opportunities. There is no guarantee that the remaining stage 2 budget from Homes England would remain available if the project were to halt for a period of time. Proceeding to public inquiry with no certainty over how the funding gap will be met would also increase the risk of the CPOs not being confirmed.

B. Cover the total funding gap and / or look at other funding options

It is recognised that the project has significant benefit to the local area however there are limited options for further capital funding without causing detriment to the rest of the capital programme delivery or the ongoing provision of services.

Whilst the Council has explored whether it could fund the total short-fall of £23.9m, the £11.9m of funds identified in this report are agreed to be the extent to which the Council could contribute without increasing its borrowing requirement to unaffordable levels, as this would not only introduce unfunded pressures on to the revenue budget and reduce its ability to deliver other services, it would not be allowable under the Prudential Code which is a legal framework to ensure that councils spending decisions are prudent, affordable and sustainable.

In deciding which funds could be identified the Council explored borrowing against future CIL receipts that are likely to be achieved through the delivery of the bypass and the delivery of additional housing in the area however, there are not enough certainties in respect of the timescales for this option to be considered prudent.

C. Re-tender the construction contract

This would provide an opportunity to test the market to explore whether further savings can be achieved during construction, but it is noted that inflation will likely be reflected in costs from any other bidders. By re-tendering we would not recognise the benefits of the ECI (early contractor involvement) contract, and the procurement process would result in programme delays, resulting in the need to postpone the CPO public inquiry which would not be favourable to Homes England.

D. Termination of the GDA contract with Homes England

As noted above, this would create uncertainty for the emerging Local Plan. In addition, there are risks around revenue reversion for the Council and the need to cover the costs of third parties such as objectors who intend to provide evidence at the upcoming inquiry and this would result in a significant amount of wasted time and resource given the progress that the project has made.

On this basis the remediation plan submitted to Homes England expressed the extent of contribution that the Council could cover (subject to approval) and requested that the remaining £12m is met by central Government. Homes England are in the process of submitting a formal paper to their internal board on these terms and a determination is anticipated by the end of June 2023.

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Appendices:

Appendix 1: Chapter 14 of Environmental Statement

Background Papers:

COU 09: HIF Forward Fund Acceptance of Grant

COU 37: Approval of serving CPO

COU 112: Approval of serving supplementary CPO